

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Greg Finch	Team: Squad #14	CCRB Case #: 201706542	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/07/2017 12:30 PM	Location of Incident: [REDACTED]	Precinct: 73	18 Mo. SOL 2/7/2019	EO SOL 2/7/2019	
Date/Time CV Reported Thu, 08/10/2017 3:40 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/10/2017 3:40 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SDS David Cheesewright	01990	913752	INT CIS
2. POM Leonard Clarke	27183	940013	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christopher London	24800	955079	073 PCT
2. POF Janise Aiken	13971	954470	073 PCT
3. DT2 Lawrence Hotaling	02671	897695	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SDS David Cheesewright	Abuse: Sergeant David Cheesewright entered and searched § 87(2)(b) in Brooklyn.	[REDACTED]
B.POM Leonard Clarke	Abuse: Police Officer Leonard Clarke refused to provide his name to § 87(2)(b)	[REDACTED]
C.POM Leonard Clarke	Abuse: Police Officer Leonard Clarke refused to provide his name to § 87(2)(b)	[REDACTED]
D.SDS David Cheesewright	Discourtesy: Sergeant David Cheesewright spoke discourteously to § 87(2)(b)	[REDACTED]
E.POM Leonard Clarke	Discourtesy: Police Officer Leonard Clarke spoke discourteously to § 87(2)(b)	[REDACTED]
F.SDS David Cheesewright	Abuse: Sergeant David Cheesewright failed to show the search warrant to § 87(2)(b)	[REDACTED]
G.SDS David Cheesewright	Abuse: Sergeant David Cheesewright failed to show the search warrant to § 87(2)(b)	[REDACTED]
H.POM Leonard Clarke	Abuse: Police Officer Leonard Clarke failed to show the search warrant to § 87(2)(b)	[REDACTED]

### Case Summary

On August 10, 2017, § 87(2)(b) called the CCRB to file this complaint on behalf of herself, § 87(2)(b) her grandson, § 87(2)(b) her granddaughter, and § 87(2)(b) her daughter.

On August 7, 2017, at approximately 12:30 p.m., § 87(2)(b) and § 87(2)(b) were resting in their duplex apartment at § 87(2)(b) in Brooklyn, when Sergeant David Cheesewright of Intel-Criminal Intelligence Section, Police Officer Leonard Clarke of the 84<sup>th</sup> Precinct, and other officers from the 73rd Precinct and 84<sup>th</sup> Precinct executed a search warrant inside of § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g) § 87(2)(b) soon arrived. PO Clarke allegedly refused to provide his name to § 87(2)(b) and § 87(2)(b) (**Allegations B and C: Abuse of Authority**, § 87(2)(g) § 87(2)(b) Sgt. Cheesewright allegedly spoke discourteously to § 87(2)(b) (**Allegation D: Abuse of Authority**, § 87(2)(g) § 87(2)(b) PO Clarke allegedly spoke discourteously to § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g) § 87(2)(b) Sgt. Cheesewright allegedly failed to show the search warrant to § 87(2)(b) and § 87(2)(b) upon request (**Allegations F and G: Abuse of Authority**, § 87(2)(g) § 87(2)(b) PO Clarke allegedly failed to show the search warrant to § 87(2)(b) upon request (**Allegation H: Abuse of Authority**, § 87(2)(g) § 87(2)(b) No arrests or summonses resulted.

Cell phone video captured by § 87(2)(b) shows the state of the apartment after the search was executed. The video footage can be found in IA#34 and the summary can be found in IA#152 (Board Review 01; Board Review 15).

### Findings and Recommendations

#### **Allegation A - Abuse of Authority: Sergeant David Cheesewright entered and searched § 87(2)(b) in Brooklyn.**

It is undisputed that officers entered and searched § 87(2)(b) in Brooklyn. Search warrant § 87(2)(b) (Board Review 02), requested by Sgt. Cheesewright and issued by Criminal Court § 87(2)(b) on § 87(2)(b), authorized a no-knock entry of § 87(2)(b) between the hours of 6 a.m. and 9 p.m. without prior notice, for officers to search the location for marijuana, and to connect persons found therein to the premises by personal papers and effects.

New York State Criminal Penal Law, Section 690.50 (Board Review 03) permits officers who have obtained a valid judge-issued search warrant to enter and search the location.

§ 87(2)(b), § 87(2)(g)

#### **Allegation B - Abuse of Authority: Police Officer Leonard Clarke refused to provide his name to § 87(2)(b)**

#### **Allegation C - Abuse of Authority: Police Officer Leonard Clarke refused to provide his name to § 87(2)(b)**

According to § 87(2)(b) (Board Review 04) and § 87(2)(b) (Board Review 05), as the search was being executed they each individually asked PO Clarke for his name, and PO

Clarke responded “Fat Boy” (Board Review 04), but did not provide his name to § 87(2)(b) and § 87(2)(b) during this incident.

According to § 87(2)(b) when § 87(2)(b) asked PO Clarke for his name, he told § 87(2)(b) “Oh, just say ‘Fat Boy’” (Board Review 06).

According to § 87(2)(b) did not ask any officer for their names, and § 87(2)(b) did not witness any interactions between § 87(2)(b) and officers (Board Review 07).

According to PO Clarke, § 87(2)(b) and § 87(2)(b) did not request his name during this incident and he never provided his name to any civilian during this incident (Board Review 08). PO Clarke said that he spoke with § 87(2)(b) about her becoming a confidential informant, and that he entered his phone number into her cell phone under the alias “Fat Boy” should she wish to take him up on the offer. PO Clarke said it is standard procedure to use a nickname in this situation out of safety concerns for potential criminal informants.

According to Sgt. Cheesewright, § 87(2)(b) requested PO Clark’s name and shield number, and PO Clarke provided § 87(2)(b) with his name, shield number and cell phone number (Board Review 09). Sgt. Cheesewright confirmed that PO Clarke uses the alias “Fat Boy” for security reasons.

§ 87(2)(b), § 87(2)(g)

**Allegation D - Abuse of Authority: Sergeant David Cheesewright spoke discourteously to**

§ 87(2)(b)

**Allegation E - Abuse of Authority: Police Officer Leonard Clarke spoke discourteously to**

§ 87(2)(b)

According to § 87(2)(b) when Sgt. Cheesewright entered the living room after ESU secured the location, he asked § 87(2)(b) “Did they beat your ass yet?” § 87(2)(b) and § 87(2)(b) were not in a position to witness Sgt. Cheesewright’s alleged discourtesy.

According to § 87(2)(b) PO Clarke said to her, “Your brother is fucking dumb, he sold to an undercover.” When PO Clarke was discussing with § 87(2)(b) the possibility of becoming a criminal informant, PO Clarke allegedly said to her, “I’m trying to help you out, you must be the stupidest girl ever.” § 87(2)(b) and § 87(2)(b) were not in a position to hear PO Clarke’s alleged discourtesies.

According to § 87(2)(b) no officer used profanity during this incident in her presence.

Sgt. Cheesewright and PO Clarke denied that they used or heard any other officer use profanity during this incident.

§ 87(2)(b), § 87(2)(g)

**Allegation F - Abuse of Authority: Sergeant David Cheesewright failed to show the search warrant to § 87(2)(b)**

**Allegation G - Abuse of Authority: Sergeant David Cheesewright failed to show the search warrant to § 87(2)(b)**

**Allegation H - Abuse of Authority: Police Officer Leonard Clarke failed to show the search warrant to § 87(2)(b)**

According to § 87(2)(b) she asked Sgt. Cheesewright and PO Clarke to see a warrant. Sgt. Cheesewright responded, “It’s for everybody.” PO Clarke did not respond to § 87(2)(b)’s request, and neither officer presented the warrant. § 87(2)(b) said that she asked PO Clarke for a warrant, and he told § 87(2)(b) that § 87(2)(b) was shown a warrant. § 87(2)(b) said that she asked Sgt. Cheesewright to see the search warrant and was not shown the warrant. § 87(2)(b)’s account of this aspect of the incident was consistent with the accounts of § 87(2)(b) and § 87(2)(b).

According to Sgt. Cheesewright, he had a copy of the search warrant with him during this incident and presented it to one civilian upon request, though he could not recall which civilian this was or how many times the request was made.

According to PO Clarke, no civilian asked him or any other officer to see the search warrant. PO Clarke’s copy of the search warrant was in his NYPD vehicle during this incident.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- Sgt. Cheesewright has been a member of the NYPD for 26 years and has 25 prior CCRB complaints comprised of 56 total allegations. There are seven previous entry and search allegations, five of which were exonerated, one of which was substantiated, and one of which was truncated. There are two previous discourtesy allegations, one of which was unsubstantiated, and one of which was exonerated. There is one previous failure to show a search warrant allegation, which was unsubstantiated. The remaining allegations do not reflect a pattern relevant to this case.

- In case #200202002, the Board substantiated one force, one threat of force and one vehicle search allegation, and recommended charges. Sgt. Cheesewright was found not guilty at trial.
- In case #200202912, the Board substantiated one question, three frisk, one vehicle stop and one refusal of name and shield number allegation, and recommended charges. Sgt. Cheesewright was instead issued instructions.
- In case #200205206, the Board substantiated one vehicle stop, one vehicle search and one retaliatory summons allegation, and recommended charges. The NYPD implemented no disciplinary action.
- In case #200600042, the Board substantiated one gun drawn, one premises entered and searched and one property damaged allegation, and recommended charges. The NYPD implemented no disciplinary action.
- PO Clarke has been a member of the NYPD for 12 years and has nine prior CCRB complaints comprised of 24 total allegations. There are three previous discourtesy allegations, all of which were unsubstantiated. There is one previous refusal to provide name and shield allegation, which was unsubstantiated. The remaining allegations do not reflect a pattern relevant to this case.
  - In case #200717254, the Board substantiated one force, one vehicle stop and one vehicle search allegation and recommended charges. PO Clarke was instead issued Command Discipline B.
  - In case #200808476, the Board substantiated one vehicle stop allegation and recommended charges. The NYPD implemented no disciplinary action due to the SOL.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) and § 87(2)(b) declined mediation.
- As of August 31, 2017, § 87(2)(b) has not filed a Notice of Claim with the NYC Comptroller's Office regarding this incident (Board Review 10). On January 18, 2018, a Notice of Claim query was submitted to the NYC Comptroller's Office for § 87(2)(b) and § 87(2)(b) (Board Review 16). The response will be attached to the casefile upon receipt.
- § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Squad:

Investigator: \_\_\_\_\_

Squad Leader:	Signature	Print	Date
	_____	_____	_____
	Title/Signature	Print	Date